

After Recording Return To:
City of Tacoma
Real Property Services
747 Market Street, Room 737
Tacoma, WA 98402
Attn: Jennifer Hines

DEVELOPMENT AGREEMENT—OLD CITY HALL

GRANTOR: TACOMA OLD CITY HALL LLC

GRANTEE: the CITY OF TACOMA, a Washington municipal corporation

Legal Description:

Legal on Exhibit A

Assessor's Property Tax Parcel Number: 0320042007

Address:

625 South Commerce Street

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions.....	5
Section 2. Intent and Relations.....	10
2.1 Generally	10
2.1.1 Standards	10
2.1.2 Cooperation	11
Section 3. Phasing	11
Section 4. Financing.....	14
Section 5. General Terms of Conveyance	15
Section 6. Development	16
6.1 Generally	16
6.2 Conditions Precedent to Commencement of Construction	17
6.2.1 Compliance with Agreement.....	17
6.2.2 Approval.....	17
6.2.3 Local Employment Apprenticeship Program (LEAP)	17
6.3 Onsite and Offsite Improvements	18
6.3.1 Onsite Improvements	18
6.3.2 Offsite Improvements.....	19
6.4 Approval Process	19
6.4.1 Concept and Schematic Design Documents	20
6.4.2 Design Development Documents.....	20
6.4.3 Construction Documents.....	21
6.5 Non-Discrimination.....	22
6.6 Governmental Approvals	22
6.7 Miscellaneous Development Provisions.....	23
Section 7. Development Schedule	
Compliance.....	24
7.1 Permitting	
Milestone.....	24
7.2 Construction Commencement.....	24
7.3 Completion of Construction.....	24
Section 8. Disclaimer of Liability; Indemnity	25
8.1 Preparation of Site; Utilities.....	25
8.2 AS IS	25
8.3 Approvals	26
8.4 Indemnification of the City	26
8.5 Permits	27
Section 9. Certificate of Completion.....	28
9.1 When Developer Entitled to Certificate of Completion.....	28
9.2 Meaning and Effect of Certificate of Completion; Termination of Agreement	28

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

9.3	Form of Certificate of Completion; Procedure if the City Refuses to Issue	29
9.4	Arbitration	29
10.4.1	Selection of Arbitrator.....	29
10.4.2	Arbitration Procedures	30
10.4.3	Costs.....	31
Section 10.	Contracting Requirements.....	31
Section 11.	Indemnity From Liens.....	32
Section 12.	Insurance	33
12.1	Insurance Requirements	33
12.1.1	Builders All Risk Comprehensive Coverage	32
12.1.2	Commercial General Liability.....	32
12.1.3	Property Insurance	34
12.2	Insurance Policies.....	33
12.3	Adjustments	35
Section 13.	Destruction or Condemnation	35
13.1	Total or Partial Destruction.....	35
13.2	Condemnation	36
Section 14.	Right to Assign or Otherwise Transfer	36
14.1	Transfers Before Certificate of Completion.....	36
Section 15.	Default.....	38
Section 16.	Remedies	40
16.1	Remedies Upon Default	40
16.1.1	Damages.....	40
16.1.2	Specific Performance	40
16.1.3	Injunction	41
16.1.4	Performance Bonds	41
16.1.5	Withhold Certificate of Completion.....	41
16.2	Copy of Notice of Default to Mortgagee	42
16.3	Mortgagee's Option To Cure Defaults.....	42
16.4	Amendments Requested by Mortgagees.....	42
16.5	Provisions Surviving Termination	43
Section 17.	Representations and Warranties	43
Section 18.	Miscellaneous.....	43
18.1	Estoppel Certificates	43
18.2	Inspection	44
18.3	Entire Agreement	44
18.4	Modification.....	44
18.5	Good Faith and Reasonableness.....	45
18.6	Successors and Assigns.....	45
18.7	Notices.....	45
18.8	Execution in Counterparts.....	46

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

18.9	Waiver	47
18.10	Rights and Remedies Cumulative	47
18.11	Applicable Law; Jurisdiction	47
18.12	No Joint Venture	47
18.13	Consents	48
18.14	Calculation of Time.....	48
18.15	Conflict of Interest	48
18.16	Discrimination.....	49
18.17	Attorneys' Fees	49
18.18	Nonwaiver of Government Rights	49
18.19	Captions; Exhibits	49
18.20	Limitation of the City's Liability	50
18.21	Force Majeure	50
18.22	Fair Construction; Severability	51
18.23	Time of the Essence	51

Exhibits

Exhibit A	Legal Description
Exhibit B	Form of Certificate of Completion
Exhibit C	Initial Construction Schedule
Exhibit D	Protective Covenants
Exhibit E	Public Benefits Agreement

DEVELOPMENT AGREEMENT—OLD CITY HALL

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is dated as of _____, 2019 between the CITY OF TACOMA, a Washington municipal corporation (the “City”), and TACOMA OLD CITY HALL LLC, a Washington limited liability company (“Developer”), collectively, the “Parties”.

RECITALS

A. The real property and improvements located at 625 South Commerce Street (Pierce County Tax Parcel No. 0320042007) commonly known as “Old City Hall,” as legally described and depicted on Exhibit A attached hereto (the “Property” or “Old City Hall”), has deteriorated significantly and fallen into disuse in recent years. The Property is, without question, one of Tacoma’s preeminent historical and architectural landmarks, having been the City’s early center of government. In order to address existing conditions, and stave off further degradation, the City purchased the Property for \$4,000,000 on June 19, 2015.

B. Thereafter, the City, through an RFP process sought qualified applicants to submit a proposal for restoration, redevelopment and operation of the Property. The RFP process placed a premium on proposals that create synergy with surrounding development, enable vibrancy and re-establish the building’s preeminence in community life. The deadline for submittals was July 31, 2018. The City received five submittals, including that of the Developer.

C. Developer submitted to the City a proposal for redevelopment of the Property that includes construction of a mixed-use development.

D. Developer's proposal for redevelopment of the Property was selected from among the five submittals for further negotiation with the intention of executing this Agreement.

E. The redevelopment and operation of the Property will fulfill an important public purpose by serving to preserve and adaptively reuse the historic landmark that is the Property.

F. Ultimately, redevelopment of the Property will be a private undertaking to be contracted, constructed and operated by Developer, as the tenant and future owner of the Property, with Developer resources, and will provide a significant redevelopment of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertakings and promises contained herein, and the benefits to be realized by each party, and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

"Affordable Housing" means 60% AMI.

"Certificate of Completion" means one or more certificates issued by the City to Developer pursuant to Section 10 of this Agreement.

"Closing" means closing of the sale of the Property.

"Code" means the Tacoma Municipal Code.

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

“Commence Construction” or “Commencement of Construction” means the commencement of construction of the rehabilitation of the building elements of the Project. Actions include but are not limited to interior and exterior demolition, structural reinforcement to address seismic inadequacies, retrofitting foundations and floors, framing, plumbing, mechanical and electrical installation, installing insulation and performing other building renovation work. Site preparation, grading, excavation and mobilization alone are not sufficient to “Commence Construction.”

“Construction Commencement Date” means the first date on which all conditions precedent to the actual commencement of construction for any part of the overall Project have been satisfied or waived as agreed to in writing by the Parties, and the Developer has Commenced Construction on the Project.

“Concept Design Documents” shall mean an architectural or artist’s rendering that illustrates the scope of the Project, and the relationship of the Project to its surroundings, consistent with the Design Guidelines and the scope of development identified by the City and the development requirements set forth herein. The intent of the Concept Design Documents is to provide, visually and in text, an idea as to the nature of the Project and its proposed mix of uses.

“Construction Documents” means, collectively, all construction documentation that Developer is required to submit as part of the Design Review process and upon which Developer and Developer’s several contractors will rely in building/rehabilitating the Improvements and the Property. These documents are based on the Design Development Documents.

“Construction Schedule” means the schedule for construction of the Improvements to be approved by the City Manager or designee as part of the Construction Documents. The “Construction Schedule” includes the initial Construction Schedule attached hereto as Exhibit C and will be finalized when the Developer submits its 30% complete Construction Documents for the Project in accordance with Section 6.1 below.

“Design Development Documents” means plans and specifications for the Project based on the Concept Design Documents and Schematic Design Documents. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationship, forms, size and appearance of the Project by means of plans, sections, elevations (if any changes to existing are proposed), typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels. A model of the Project may be provided in conjunction with the documents.

“Design Guidelines” means, collectively, the Concept Design Documents, the City of Tacoma Municipal Code, the City of Tacoma Land Use Regulatory Code, the City of Tacoma Downtown and Historic Preservation Elements of the City’s Comprehensive Plan,

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

Old City Hall Historic District design guidelines and other Legal Requirements that affect the Project and the Property.

“Design Review” means the process set forth in Section 13.05.047 of the Tacoma Municipal Code.

“Development Agreement” means this Agreement together with the above Recitals and any attachments, exhibits or addenda attached hereto.

“Development Plan” means Developer’s plan for development of the Property consisting of the adaptive reuse of Old City Hall as a Mixed Use Development. At a minimum, the Development Plan must provide for completion of the Principal Project Elements as set forth below.

“Effective Date” means the date all necessary signatures have been obtained to formally execute this Agreement.

“Environmental Standards” means all federal, state and local environmental laws and ordinances and all regulations promulgated thereunder, whether currently in effect or enacted or amended from time to time in the future (to the extent that compliance with future laws or amendments is legally required) including, but not limited, to the Endangered Species Act, the Resource Conservation and Recovery Act at 42 U.S.C. § 6921 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act at 42 U.S.C. § 9601 *et seq.*, the Clean Air Act at 42 U.S.C. § 7401 *et seq.*, the Federal Water Pollution Control Act, as amended at 33 U.S.C. 1318, the Toxic Substances Control Act at 15 U.S.C. § 2601 *et seq.*, the Shoreline Management Act at Ch. 90.58 RCW, the Hazardous Waste Management Act at Ch. 70.105 RCW, the Clean Air Act at Ch. 70.94 RCW, the Water Pollution Control Act at Ch. 90.48 RCW, and the Model Toxics Control Act at RCW 70.105.D, *et seq.*, and also including but not limited to any guidelines, levels and standards currently in effect or enacted or amended from time to time in the future (to the extent that compliance with future laws or amendments is legally required) by the applicable federal, state or local regulatory authority for addressing any contamination of any sort.

“Event(s) of Default” shall be as defined in Section 16 herein.

“Financing Obligations” means the debt service and other obligations of Developer related to the financing of the Property and the Project.

“Financing Plan” shall have the meaning given in Section 4 herein.

“Fiscal Agent” means an organization, such as a bank or trust company, that acts on behalf of another party performing various financial duties, assisting in the redemption of bonds or coupons, handling tax issues, replacing lost or damaged securities and performing various other finance-related tasks.

“Force Majeure” shall have the meaning given in Section 19.21 herein.

“Governmental Authorities” means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property and/or the management, operation, use, environmental cleanup or improvement thereof.

“Improvements” means all buildings, structures, improvements and fixtures now or hereafter placed, constructed or rehabilitated in, under or upon the Property, together with all additions to or replacements thereof made from time to time, and all access points, public amenities, utility facilities, lighting, signage and other infrastructure improvements to be built by Developer on the Property.

“Institutional Lender” means any international, national or state bank, commercial or savings bank, savings and loan association or trust company, insurance company, pension fund, real estate investment trust or real estate operating company. Non-Institutional Lenders may be referred to simply as “lenders.”

“Intellectual Materials” means any and all plans, studies and reports obtained by the Developer pertaining to the Property.

“Legal Requirements” means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect (to the extent that compliance with future laws or amendments is legally required), whether or not presently contemplated, applicable to the Property, the Project or their ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, the Americans With Disabilities Act of 1990, as amended, the Protective Covenants, the Plans, life safety requirements and Environmental Standards.

“Mortgagee” means the holder of a first mortgage or deed of trust (“Mortgage”) encumbering Developer’s interest (whether leasehold or fee) in any portion of the Property, the proceeds of which are used to finance or refinance the construction of Improvements.

“Offsite Improvements” means any improvements not located within the confines of the Property required by the Project in order to comply with applicable laws.

“Plans” means, collectively, the Concept Design Documents, the Schematic Design Documents, the Design Development Documents and the Construction Documents for any Phase.

“Principal Project Elements” shall have the meaning given in Section 3.

“Project” means the redevelopment/restoration of the Property, including construction of all Improvements, and all related obligations of Developer with respect to Offsite Improvements and Protective Covenants.

“Project Documents” means this Agreement, any Sale Agreement entered into, the Public Benefits Agreement and the Protective Covenants.

“Protective Covenants” means those certain easements, covenants and restrictions to be recorded against any part of the Property in the official records of Pierce County, Washington for the purpose of historic preservation of the Property or other stated purpose, including affordable housing. The Protective Covenants are attached hereto as Exhibit D.

“Public Benefits Agreement” means a City-approved Agreement where the Developer commits to a variety of public benefits equating to the balance of Two Million U.S. Dollars (\$2,000,000).

“Schematic Design Documents” shall mean:

Site plans showing all intended Project Improvements in relation to the Property, with all proposed connections to existing or proposed roads, utilities and services;

Plans, elevations (if any proposed to be different from those existing), typical cross-sections and typical wall sections of all building areas;

Plans, elevations, and typical cross sections of the interior space if different than existing;

A preliminary selection of major building systems and construction materials;

A preliminary exterior finish schedule;

Proposed layouts for exterior signage and graphics;

Outline of the exterior lighting concept; and

A description of servicing requirements, trash areas, loading docks, etc.

“Substantial completion” or “substantially complete” means the date on which all of the following have occurred: (i) the Improvements contemplated by this Agreement are completed according to the approved Plans, except for punch list items that do not substantially prevent the use of the Improvements for their intended purposes; and (ii) the

City has issued a temporary or final Certificate of Occupancy for the building portions of the Improvements included in the Project.

Section 2. Intent and Relations.

2.1 Generally. Subsequent to its purchase of the Property and pursuant to this Agreement, Developer will construct the Improvements and the Offsite Improvements required by Section 6.3. Development on the Property will include restoration, rehabilitation and protection of the historic landmark features identified in the Protective Covenants. The Parties agree that protection of the historic landmark features identified in the Protective Covenants may be accomplished through the transfer of development rights from certain aspects of the Property [A2]. This Agreement is intended by the Parties to establish the design, development and performance criteria for the Project. The Parties agree that the Developer has sole responsibility for construction, obtaining all necessary permits and approvals and complying with all Legal Requirements as they relate to occupancy, construction and operation of the Project. Except as may be otherwise agreed by the Developer and the City in writing, the Developer shall at its own cost furnish all plans, engineering, supervision, labor, materials, supplies and equipment necessary for completion of the Project. The City has entered into this Agreement relying on Developer's covenants that it will design and construct the Project in accordance with Plans approved by the City pursuant to this Agreement. In no event shall any agreement between the City and the Developer create any new financial obligation on the City.

2.1.1 Standards. Developer shall perform the terms of this Agreement according to the following standards:

(i) All construction hereunder shall comply with, and be performed in accordance with, the Design Guidelines, this Agreement and all Legal Requirements, free and clear of all liens (other than in connection with Approved Financing Obligations and those expressly set forth in this Agreement).

(ii) Developer agrees to pursue completion of the Project as expeditiously as possible. Once Developer Commences Construction, Developer agrees to diligently design, construct and complete the Improvements in accordance with the requirements of the Design Review process, and in a good and workmanlike manner and of good quality, subject to Force Majeure.

(iii) Developer shall deliver a copy of this Agreement to its architects, engineers and general contractors.

2.1.2 Cooperation. Any other provision of this Agreement notwithstanding, the City agrees to cooperate with Developer in the prosecution and completion of the Project. Without limiting the generality of the foregoing, the City agrees that as long as there have been no Events of Default by Developer under this Agreement, it will not take actions inconsistent with the goals of this Agreement. The City's duty to cooperate under this Section 2.1.2 shall not require it, however, to incur liability, costs or expenses, or in its regulatory role, to engage in any action beyond its normal processes.

Section 3. Principal Project Elements. Developer hereby agrees that the Project will include at least the following Principal Project Elements that consist of two categories:

A. Restoration

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

1. Restore and maintain the clock and the chimes in the clock tower so that accurate time is displayed and the clock mechanism, face and chimes are in working order in perpetuity.
2. Restore missing elements, such as an historically appropriate visual facsimile of the copper roofing on both towers, and copper eaves, if economically feasible.
3. Include specific plans addressing the stabilization and protection of all vaulted walks adjacent to the building.
4. Maintain the historic integrity of the structure in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation for interior and exterior alterations as well as the Old City Hall Historic District design guidelines. The Property is listed on the Tacoma, State of Washington and National Registers of Historic Places.

The Parties agree to consider employing transfer of development rights as a mechanism to achieve the historic restoration and protection requirements set forth herein [A1].

B. Development

At a minimum, the Development Plan shall, as allowed by the International Building Code, provide for:

1. Two restaurants – one on Pacific Avenue (basement level) and one on the rooftop,
2. One bar on Commerce Street,
3. Approximately 20,000 square feet of retail space on the first and second levels,
4. Approximately 20,000 square feet of office and co-working space on the third and fourth levels,
5. A minimum of 40 micro-apartments on the fifth level, with at least 20 Affordable Housing units,
6. Event space in the Old Clock Tower if economically feasible, and
7. Exhibit space.

The Parties recognize that Developer may need to modify the planned specific uses described above based on economics or other factors during and after the development of the Property. If Developer needs to modify the planned specific uses, Developer will request permission in writing from the City which the City agrees shall not be unreasonably withheld.

In addition, the Development Plan shall:

1. Include measures in the renovation designed to promote environmental sustainability if economically feasible and maintain historic character through the incorporation of conservation design elements and green building principles,

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

2. Developer shall meet with Tacoma Public Utilities' energy efficiency experts to obtain an energy audit of Old City Hall at no cost to the Developer and explore the potential to incorporate energy efficiency measures into the project,
3. Make reasonable efforts to incorporate Small Business Enterprise ("SBE" as set forth in Tacoma Municipal Code Chapter 1.07) and Local Employment and Apprenticeship Training Program ("LEAP" as set forth in Tacoma Municipal Code Chapter 1.90) participation in construction of the Project with acknowledgement that incorporation does not materially increase Developer's costs. City agrees to assist Developer with facilitating and implementing the incorporation of SBE and LEAP participation.
4. Guarantee performance that the construction shall be completed in accordance with approved plans. The guarantee shall be secured by a performance bond or an Irrevocable Letter of Credit, which Developer shall obtain if 30% Construction Documents are not completed and delivered to the City on the date set forth in this Agreement and in Exhibit C. Developer stipulates that any and all draws from the construction financing shall be committed to the improvements on the property.
5. Incorporate equitable access to tenancy into the Developer's lease of the Property. Equitable access shall be defined as making a concerted effort to lease fifty percent (50%) of the retail space to businesses owned by persons living or doing business in underserved geographical areas of Tacoma, enrolling fifty percent (50%) of persons living or doing business in underserved geographical areas of Tacoma into the educational programs offered at Old City Hall and offering fifty percent (50%) of the affordable housing units to persons living or doing business in underserved geographical areas of Tacoma. The Developer shall work with City staff to develop an implementation plan for City review and approval prior to property conveyance and shall provide tangible evidence of how it implemented outreach to persons living or doing business in underserved geographical areas of Tacoma to achieve the aforementioned objectives semi-annually by January 15th and July 15th of each year for ten (10) years, and
6. Continuously maintain both the interior and exterior worksites in a well-kept and orderly condition with no outside storage of construction materials.

Section 4. Financing. Prior to Commencement of Construction, and in any event as a precondition to conveyance of the Property, Developer must submit to the City, for its review and approval, a detailed description of its plan to finance the Project, including both equity and debt portions of the financing (the "Financing Plan"). The Financing Plan shall include, at a minimum, provision of the following information:

Developer must demonstrate it has funding sources in place for 100% of the cost of the Project, and must represent and warrant to the City at that time that such funds are committed to the Project. The Total Project Cost is estimated at \$15 million U.S. dollars. The Developer shall contribute at least forty percent (40%) equity into the project, which may consist of its own and/or investor equity as well as equity derived from the potential sale of Federal historic tax credits and sixty percent (60%) debt. Developer intends to fund the project as follows: (A) a minimum of \$3.25 million U.S. dollars of Developer and investor equity, (B) a minimum of \$2.75 million U.S. dollars of Federal historic tax credits and (C) \$9.0 million U.S. dollars of Property secured debt. In the event the Developer defaults on this Agreement and/or withdraws from the project, any and all Developer and investor cash equity shall be surrendered to the City in an amount equal to the balance of the Property secured debt. The City shall use this cash equity to pay off the secured debt in order to eliminate the loan encumbrance from the Property.

Acceptable evidence of financing shall consist of:

1. A letter from a reputable United States bank that verifies the amount of the Developer's funds on account with the bank; and
2. A letter from a Fiscal Agent that verifies the amount of investor equity pledged; and
3. A letter from a reputable United States bank, financial institution or other investors purchasing the historic tax credits that verifies the sale price; and
4. A letter of commitment for a construction loan with terms and conditions consistent with market rate commercial construction loan commitments and which are reasonably acceptable to the City. The terms of the commitment letter shall include a description of when and under what conditions bank funds will be released.

Developer shall make financial information concerning the Project requested by the City available for the City's review. Such information may be submitted under procedures mutually agreeable to the Parties to preserve the confidentiality of such information.

Section 5. Conveyance. Conveyance and ownership of the Property shall remain subject to the provisions of this Agreement. Prior to any conveyance, Developer must comply with the following:

- A. Approved Development Plan for building improvements (approval of City staff and Tacoma Landmarks Preservation Commission).
- B. Approved Public Benefits Agreement.
- C. Completed and approved Part II of Federal Historic Tax Credits application.
- D. Developer demonstrates it has sources of funds for 100% of the Total Project Cost, and represents and warrants to the City at that time that such funds are committed to the Project. The Total Project Cost is estimated at \$15 million. The Developer shall contribute at least forty percent (40%) equity into the project, which may consist of its own and/or investor equity as well as equity derived from the potential sale of Federal historic tax credits and sixty percent (60%) debt. Tacoma Old City Hall LLC intends to fund the project as follows: (1) a minimum of \$3.25 million of Developer and/or investor equity, (2) a minimum of \$2.75 million of Federal Historic Tax Credits, (3) \$9.0 million of private lender secured debt. In the event the Developer defaults on this Agreement and/or withdraws from the project, any and all Developer and investor cash equity shall be surrendered to the City in an amount equal to the balance of the Property secured debt. The City shall use this cash equity to pay off the secured debt in order to eliminate the loan encumbrance from the Property.
 - a. Acceptable evidence of financing consists of:
 - i. A letter from a reputable United States bank that verifies the amount of the Developer's funds on account with the bank; and
 - ii. A letter from a Fiscal Agent that verifies the amount of investor equity pledged; and
 - iii. A letter from a reputable United States bank, financial institution or other investors purchasing the historic tax credits that verifies the sale price; and
 - iv. A letter of commitment for a construction loan with terms and conditions consistent with market rate commercial construction loan commitments and which are reasonably acceptable to the City. The terms of the commitment letter shall include a description of when and under what conditions bank funds will be released.
- E. Secured all initial permits for constructing interior and exterior improvements to adaptively reuse Old City Hall in compliance with the Development Plan, the Secretary of the Interior's Standards for Historic Rehabilitation for interior and

exterior alterations as well as the Old City Hall Historic District design guidelines. These permits must be ready for issuance and pickup upon conveyance.

- F. CED Director and Public Works Director-approved Parking/Non-Motorized Transportation Plan, which shall not be unreasonably withheld. Methods may include public and private garages, lots and transit. It is acknowledged that the Developer is not required to provide parking by City code.
- G. CED Director and Office of Equity and Human Rights Director-approved Equitable Access Plan regarding the Developer's lease of the Subject Property.

Section 6. Development.

6.1 Generally. Developer shall construct and complete the Project/Improvements on the Property as specifically described and depicted in the Plans for the Project. The Parties agree that no construction on any part of the Project will commence prior to satisfaction of the conditions set forth in Sections 5 A-F above and 6.2 below, except that building/property maintenance, repairs and security measures are allowed. When the 30% complete Construction Documents for the Project are submitted to the City for approval by the City Manager or designee, they will be accompanied by a final Construction Schedule (replacing the initial Construction Schedule attached hereto as Exhibit C) showing the anticipated commencement and completion dates for construction. The 30% complete Construction Documents for the Project and final Construction Schedule must be submitted to the City for City Manager or designee's approval no later than one year from the date of execution of this Agreement. Developer shall commit its best efforts to ensure that Substantial Completion is achieved in accordance with the Construction Schedule, subject only to Force Majeure or as extended by written agreement of the City, and shall be completed substantially in accordance with the approved Construction Documents. Developer agrees that once construction has begun on the Improvements, Developer will

proceed continuously (subject only to delays for Force Majeure) with such construction until such Improvements have been completed.

6.2 Conditions Precedent to Commencement of Construction. The following conditions shall have been satisfied before Commencing Construction on the Property:

6.2.1 Compliance with Agreement. Developer shall be in material compliance with this Agreement, including, without limitation, all contracting requirements and receipt of all necessary permits for construction.

6.2.2 Approval. Developer shall have obtained the City approval of the Plans for the Improvements relevant to commencement, in accordance with the approval process set forth in this Agreement.

6.2.3 Local Employment Apprenticeship Program (LEAP). Developer shall have obtained City of Tacoma approval to participate in the City's Local Employment Apprenticeship Program during construction of the project, and shall make reasonable efforts to include at least fifteen percent (15%) of the labor hours for construction of the Project.

6.2.4 Small Business Enterprise (SBE) Project Participation. The Developer shall work with the City of Tacoma SBE Coordinator to use registered City of Tacoma SBE Program qualified consultants and contractors to solicit bids on the project for work not already contracted at the time the Development Agreement is executed. The Developer shall coordinate with the City of Tacoma SBE Coordinator to ensure that SBE utilization is used when economically practicable and shall report SBE activity throughout the project as directed by the City.

6.2.4 Fire Suppression System. Developer shall work with Tacoma Public Utilities, Water Division, to switch the fire suppression system for Old City Hall to a lower pressure zone. This pressure zone change will result in reduced water pressure to the Building and will require that the existing fire suppression system be modified to serve the Building. Developer shall negotiate and execute a separate agreement with Tacoma Water, which would compensate the Developer for the installation of a fire pump system and appurtenances within the Building to provide adequate fire suppression for the existing configuration.

6.3 Onsite and Offsite Improvements.

6.3.1 Onsite Improvements.

(i) Developer is responsible for all excavation (if any) and disposal of soils (if any) and other materials removed from the Property.

(ii) All work onsite and offsite will be done in accordance with applicable laws.

Any required Onsite Improvements will be constructed by Developer substantially in accordance with the Design Review approvals obtained in connection with the Project and approved by the appropriate City authorities.

6.3.2 Offsite Improvements.

(i) Developer is responsible for the completion of all Offsite Improvements required by applicable laws.

(ii) Permitting for Offsite Improvements will be the Developer's responsibility.

Any required Offsite Improvements will be constructed by Developer substantially in accordance with the Design Review approvals obtained in connection with the Project and approved by the appropriate City authorities.

6.4 Approval Process. Developer shall submit for approval to the City the items described in Sections 6.4.1 through 6.4.3 below. Developer's request for approvals hereunder shall be in writing and shall include sufficient information and such other information as may be required under the Design Guidelines so as to permit the City to make an informed decision with respect thereto ("request"). Approvals by the City under this Section 6.4 shall not be unreasonably withheld so long as the submittal complies with the Design Guidelines and the requirements of this Agreement. The City's approval shall be deemed given with respect to any submitted material ("submission") unless the City shall notify Developer in writing within thirty-five (35) days of the request, stating the reasons for withholding approval. Notwithstanding the foregoing, if the City reasonably believes that City Council approval or Design Review Committee approval is required, then the City shall have such longer time as is necessary to expeditiously obtain such approval, but not to exceed forty-five (45) days. Developer shall, upon receipt of disapproval, modify the submission, taking into account such objections, and promptly resubmit it to the City for approval. Such process of submittal, review, comment and re-submittal by Developer shall continue until such time as the submission has been approved by the City and as otherwise

required under the Design Guidelines. The City may condition approval upon confirmation that the submission otherwise complies with the Design Guidelines.

Approval shall not be required for any modification, replacement, alteration or addition (but excluding any relocation) to any previously approved submission, unless there is a material change from the previously approved submission. For any material modifications thereto proposed by Developer, the procedure shall be as described in this section. As used in this Agreement, a “material modification” shall be one that would (i) conflict with any Design Guidelines or Landmarks Preservation approval; (ii) alter the exterior physical appearance or materials of the Project; (iii) materially alter the exterior structure of the building to be rehabilitated on the Property; (iv) cost more than \$1,000,000 in hard construction costs; or (v) result in a reduction in hard construction costs associated with the exterior portions of the project of more than \$300,000.

6.4.1 Concept and Schematic Design Documents. The City must approve the Concept Design Documents and the Schematic Design Documents for the development of the Property. Once approved, any material modification of the approved Concept Design Documents and the Schematic Design Documents shall be submitted to the City for prior written approval.

6.4.2 Design Development Documents. Developer and the City will use best efforts to agree on Design Development Documents for the Improvements in sufficient time to allow Developer to complete the Construction Documents and obtain the City approval therefor as required by Section 6.4.3. The City shall review the Design Development Documents with regard to matters relating to site planning, size, form and

exterior finish of the Improvements, lighting, general design aesthetics, and consistency with the Design Guidelines, Concept Design Documents and Schematic Design Documents.

Any material modification to approved Design Development Documents shall be submitted for prior written approval by the City, and if not so approved, the previously approved Design Development Documents shall continue to control.

6.4.3 Construction Documents. Developer and the City will use best efforts to agree on Construction Documents for the Improvements in the Project. The Construction Documents shall be based upon the approved Concept Design Documents, the Schematic Design Documents, the Design Development Documents and the Design Guidelines for such Improvements. The Construction Documents shall include a Construction Schedule which shall be subject to the approval of the City.

Any material modification to the approved Construction Documents or Construction Schedule for any part of the Project shall be submitted for prior written approval by the City, and if not so approved, the previously approved Construction Documents shall continue to control. The City shall have the right to disapprove any modifications that (a) do not meet the requirements of this Agreement; (b) do not comply with all applicable laws and ordinances; (c) would violate the terms of any permits, licenses, permissions, consents or approvals required to be obtained from governmental agencies; (d) do not comply with the City-approved design (approved pursuant to Section 6.4.2 above); (e) are not consistent with the Construction Schedule approved by the City; or (f) involve proposed changes in work or materials that would be a material modification under Section 6.4 above.

6.5 Non-Discrimination. In the implementation of this Agreement, including construction of all Improvements and any leasing of the Project, neither party shall discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of any of these nondiscrimination covenants, subject to the cure provisions of Section 16 hereof, the City shall have the right to exercise all of its remedies for default hereunder.

6.6 Governmental Approvals. The Developer shall apply for, at its sole cost, to the appropriate Governmental Authorities or third parties, and shall diligently pursue and obtain all permits, licenses, permissions, consents or approvals required in connection with the construction of the Improvements. The City will cooperate with Developer to obtain all such permits, licenses, permissions, consents and approvals, but without liability, cost, or expense to the City.

6.7 Miscellaneous Development Provisions. In addition to the foregoing, the Parties agree to use their best efforts to accomplish the following in the course of completing the Project:

6.7.1 Project Manager. The Developer shall appoint and name a Project Manager as a single point of contact for all issues related to the Project. The Project Manager will interface with City staff on a bi-weekly basis to ensure the Project remains on target and that quality control and quality assurance measures are in place. The Project Manager will have expertise in planning as well as construction management.

6.7.2 Project Management/Construction Progress Reports. The Developer shall submit quarterly reports, at a minimum, to the City by January 15th, April 15th, July 15th and October 15th of each year that the Agreement is in effect until a Certificate of Occupancy is issued. The report shall describe the progress made on the Project. The City shall review the information, and if progress is stalled, shall work with the Developer to determine how to achieve performance. The Developer shall submit bi-weekly construction progress reports.

6.7.3 Rescission. If Developer fails to Commence Construction of the Project by the date set forth in the initial Construction Schedule (or later City-approved Development Plan/final Construction Schedule), the City shall have the option to rescind the sale of the Property by refunding the net purchase price paid by Developer under the Purchase Agreement. In the event of a rescission, the City is entitled to copies of all Intellectual Materials (e.g. plans, reports, engineering studies), which copies may be used by the City and/or its future development partners. Insufficient funding shall not be an acceptable reason for delay of construction.

Section 7. Development Schedule Compliance. The following provisions shall apply to the Developer's obligation to meet certain milestones in the Construction Schedule:

7.1 Permitting Milestone. The Developer shall be required to obtain building and related permits by July 15, 2020, unless the City Manager approves an alternate date in the final Construction Schedule, which approval shall not be unreasonably withheld. A

\$10,000/month liquidated damage shall be assessed for any delay beyond July 15, 2020, subject only to Force Majeure or any items the City agrees, in writing, are beyond the Developer's control.

7.2 Construction Commencement. Developer must Commence Construction on the Project no later than August 15, 2020, unless the City Manager approves an alternate date in the final Construction Schedule. If this milestone is not met, the City may, in its sole discretion, terminate this Agreement, or in the event that the Property has been conveyed prior to August 15, 2020, require re-conveyance of the Property from the Developer to the City in exchange for the City's return to the Developer of the purchase price paid therefor.

7.3 Completion of Construction. The Developer shall be required to complete construction of the Project no later than November 30, 2021 (unless the City Manager approves an alternate date in the final Construction Schedule) and obtain a Certificate of Occupancy by December 15, 2021 (unless an alternate date has been approved by the City Manager in the final Construction Schedule). A \$900/day liquidated damage (amount based upon estimated property taxes and B&O revenue foregone with delays) shall be assessed for delays in meeting this milestone subject only to Force Majeure or any items the City agrees, in writing, are beyond the Developer's control. The amounts due shall be paid by the 10th of the following month for which it has not obtained the Certificate.

Section 8. Disclaimer of Liability; Indemnity.

8.1 Preparation of Site; Utilities. The City shall not be responsible for any demolition or site preparation in connection with the Project or any existing Improvements on the Property. The City makes no representations as to the availability or suitability of

utility connections to the Property. Developer shall make arrangements for utility services directly with utility service providers. Any costs of installation, connection, relocating or upgrading from conditions existing as of the date of execution of this Agreement shall be paid by Developer, including but not limited to water, sanitary sewer and storm and sewer mains, streetlights, traffic lights, electric utilities and fire hydrants, except as may be subsequently agreed by the City and the Developer, provided that such agreement shall not create any new financial obligation on the part of the City.

8.2 AS IS. the City makes no warranties or representations as to the suitability of any conditions of the Property or structures thereon for any Improvements to be constructed by Developer, and Developer warrants that it has not relied on representations or warranties, if any, made by the City as to the physical or environmental condition of the Property or the structures thereon for any improvements to be constructed by the Developer. The Developer shall assume all environmental liability, if any, for the Property.

8.3 Approvals. Approval by the City of any item described in Section 6.4 of this Agreement shall not constitute a representation or warranty by the City that such item complies with Legal Requirements, and the City assumes no liability with respect thereto. Notwithstanding any provision of this Agreement to the contrary, the City is under no obligation or duty to supervise the design or construction of the Improvements. The City's approval of the Plans shall not constitute any representation or warranty, express or implied, as to the adequacy of the design or any obligation on the City to insure that work or materials are in compliance with the Plans or any building requirements imposed by a governmental entity. The City is under no obligation or duty, and disclaims any responsibility, to pay for

the cost of construction of the Improvements, the cost of which shall at all times remain the sole liability of Developer.

8.4 Indemnification of the City.

8.4.1 Developer shall indemnify, defend and hold the City harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Developer's occupancy or ownership of the Property, or the construction of the Improvements, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors, assigns or invitees, on or with respect to the Property. The City shall be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is not caused by the negligence or willful misconduct of the City. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, the City shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of the City. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding the City is made a party, the City shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by, counsel of its own choosing, and to the extent the City is indemnified under this section, Developer shall bear the cost of the City's defense, including

reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without the City's written approval, not to be unreasonably withheld.

8.5 Permits. Developer acknowledges that the City has not made any representation or warranty with respect to Developer's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or Project. Nothing in this Agreement is intended or shall be construed to require that the City exercise its discretionary authority under its regulatory ordinances to further the Project nor binds the City to do so. Developer understands that the City will process applications for permits and approvals in accordance with its normal processes.

Section 9. Certificate of Completion.

9.1 When Developer Entitled to Certificate of Completion. Upon substantial completion of the Project in accordance with this Agreement and satisfaction of the other conditions of this Section 9, the City will furnish Developer with a Certificate of Completion for the building, substantially in the form attached hereto as Exhibit B. Notwithstanding the foregoing, the City shall not be required to issue the Certificate of Completion if Developer is not then in material compliance with the terms of this Agreement. In addition, if punch list items remain when Developer requests the Certificate of Completion, the City may require as a condition to the issuance thereof that Developer post a performance bond, submit an Irrevocable Letter of Credit or provide other financial assurance reasonably satisfactory

to the City to insure completion of the punch list items, and Developer agrees to proceed with all reasonable diligence to complete the punch list items.

9.2 Meaning and Effect of Certificate of Completion; Termination of Agreement.

Issuance by the City of a Certificate of Completion for the Project may terminate this Agreement if the Parties are in Agreement as to its termination, except for the provisions described in Section 16.5 below that expressly survive termination of this Agreement.

9.3 Form of Certificate of Completion; Procedure if the City Refuses to Issue. If

the City refuses or fails to provide a Certificate of Completion in accordance with the provisions of this Section 9, the City, within fifteen business (15) days after written request by Developer for such Certificate of Completion, shall provide Developer with a detailed statement indicating in what respects Developer has failed to complete the Improvements in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts must be taken, in the opinion of the City, to obtain such Certificate of Completion. Upon receipt of such detailed statement, Developer shall complete the Improvements and cure the alleged default in a manner responsive to the stated reasons for disapproval or submit the issue of whether the City has unreasonably withheld issuance of such Certificate of Completion to binding arbitration pursuant to Section 9.4 herein. Failure by the City to furnish Developer with such detailed statement within such fifteen (15) day period shall be deemed an approval by the City of Developer's request for Certificate of Completion.

9.4 Arbitration. If Developer elects arbitration under Section 9.3 above, the following provisions shall apply.

9.4.1 Selection of Arbitrator. If the Parties are able to agree upon a single arbitrator within 20 days after written notice by one party to the other of its desire to arbitrate a dispute under Section 9.3, then the dispute shall be submitted to and settled by that single arbitrator. Otherwise, any party (the demanding party) may notify the other party (the noticed party) in writing of its demand for arbitration, stating the question to be submitted for decision and appointing one arbitrator. Within 20 days after receipt of such notice, the noticed party shall appoint an arbitrator and notify the demanding party in writing of such appointment. If the noticed party fails within 20 days after receipt of such notice to name its arbitrator, the arbitrator of the demanding party shall select an arbitrator for the noticed party so failing, and if the arbitrator for the demanding party and the noticed party cannot agree on that selection, said arbitrator shall be appointed by the American Arbitration Association (“AAA”) in compliance with the Rule of Appointment of Neutral Arbitrator upon written notice to all other parties. The arbitrators so chosen shall select one additional arbitrator to complete the board. If they fail to agree upon an additional arbitrator, the same shall, upon application of any party, be appointed by the AAA rules pursuant to the Rule for Appointment of Neutral Arbitrator. If an arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) who chose that arbitrator, or the AAA, as appropriate, shall appoint another to act in such arbitrator’s place. Any arbitrator appointed by AAA under this Section 9.4 shall possess knowledge or experience of the building and construction industry.

9.4.2 Arbitration Procedures. Upon selection of the arbitrator(s), said arbitrator(s) shall determine the questions raised in said notice of demand for arbitration within 20 days, unless a different period of time is otherwise agreed upon by the Parties. Said arbitrator(s) shall then give all Parties reasonable notice of the time (which time shall be within 30 days of the arbitrator(s)' determination of the questions raised, unless a different period of time is otherwise agree upon by the Parties), and place (of which the arbitrator(s) shall be the judge) of hearing evidence and argument. The books and papers of all Parties, as far as they relate to any matter submitted for arbitration, shall be open to the examination of the arbitrator(s).

After considering all evidence, testimony and arguments, said single arbitrator or a majority of the board of arbitrators shall, within 30 days of completion of the hearing provided, promptly state its decision or award in writing. Said decision or award shall be final, binding, and conclusive on all Parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision upon any question submitted for the arbitration, performance under this Agreement shall continue in the manner and form existing prior to the occurrence of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision immediately after receiving it.

9.4.3 Costs. Each party to the arbitration shall pay the compensation, costs and expense of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits and counsel. The compensation, cost and expenses of the single

arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by both Parties to the arbitration.

Section 10. Contracting Requirements. The requirements of this Section 10 shall apply to the Project only until the Certificate of Completion is issued. If required by an Institutional Lender or other lender, Developer shall, before commencing construction of any Improvements, provide or require its general contractor to provide a performance and payment bond, in an amount equal to the estimated total construction cost of such Improvements or in such amount as may otherwise be required by such Institutional Lender or other lender. Such bond shall be provided by a bonding company licensed in Washington with a Best rating as is required by the Institutional Lender or other lender.

Section 11. Indemnity From Liens. In no event shall Developer, prior to issuance of the Certificate of Completion, cause any lien to attach to any property owned by the City, in connection with any monetary obligation, including but not limited to mortgages, deeds of trust, mechanic's liens, attachment liens, judgment liens, execution liens, utility liens, security interests or encumbrances, unless Developer first obtains the City's written approval therefor, which approval shall not be unreasonably withheld. Developer shall indemnify and hold harmless the City from and against all mechanics', materialmen's and laborers' liens and all costs, expenses and liabilities arising from construction of Improvements upon any property owned by the City, except to the extent arising out of labor or materials contracted for by the City. Nothing contained in this Agreement shall be construed as the consent or request of the City, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment to the Project (or any part thereof). NOTICE

IS HEREBY GIVEN THAT THE CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER, OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) THROUGH OR UNDER DEVELOPER, EXCEPT AS MAY BE SUBSEQUENTLY AGREED BY THE SPECIFICALLY AFFECTED PARTIES.

Section 12. Insurance. The requirements of this Section 12 shall apply to the Project only until the Certificate of Completion is issued. Thereafter, the Protective Covenants will provide the governing insurance requirements.

12.1 Insurance Requirements. Developer shall maintain and keep in force insurance covering all aspects of the construction activity within the Project, including but not limited to the following requirements or, in the alternative, maintain such insurance as required by Developer's Mortgage/Lender.

12.1.1 Builders All Risk Comprehensive Coverage. Developer shall keep, or shall require its general contractor to keep, all Project components included in the Project insured for Builders All Risk Comprehensive Coverage including earthquake, fire, and flood and to include amounts sufficient to prevent Developer from becoming a co-insurer under the terms of the applicable policies but in any event in an amount not less than 100% of the then full "Replacement Cost," being the cost of replacing the Project components, and all fixtures, equipment, improvements and betterments thereto.

12.1.2 Commercial General Liability. Developer shall carry, and shall require its construction contractor to carry, Commercial General Liability insurance

providing coverage against claims for bodily injury, death or property damage in connection with the Project with broad form liability and property damage endorsement, such insurance to afford minimum protection, during the term of the construction of the Project, and written for combined single limits of liability of no less than Ten Million Dollars (\$10,000,000), per occurrence, said amount to be adjusted from time to time with coverage deemed customary under like conditions.

12.1.3 Property Insurance. Upon completion of the construction of the Improvements in the Project, and until the Certificate of Completion is issued for the Project (and thereafter as provided in the Protective Covenants), Developer shall carry property insurance covering the Improvements in the Project, including earthquake, flood, boiler and machinery insurance, in an amount equal to at least one hundred percent (100%) of the replacement cost of all such Improvements. Such insurance shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Form, 2017 Edition. Developer shall be responsible for payment of any deductibles under said insurance policies and any costs of restoration resulting from any uninsured or underinsured losses.

12.2 Insurance Policies. Insurance policies required herein:

12.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

12.2.1.1 The companies must be rated no less than "A," as to general policy holders rating and no less than "VII" as to financial category in accordance

with the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Incorporated.

12.2.1.2 The policies shall name the City as a named additional insured for liability purposes and as a loss payee.

12.2.1.3 The policies shall be issued as primary policies.

12.2.2 Each such policy or certificate of insurance mentioned and required in this Section 12 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and the City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the Parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

12.2.3 The certificates of insurance and insurance policies shall be furnished to Developer and the City prior to commencement of construction under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required for strict compliance with this Section 12.

12.2.4 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 15 of this Agreement, without cure or grace period. In addition to any other legal remedies, the City at its sole option after written notice may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to the City.

12.3 Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as Developer and the City may mutually determine.

Section 13. Destruction or Condemnation.

13.1 Total or Partial Destruction. If the Improvements are totally or partially destroyed at any time during the term of this Agreement, and the cost of reconstruction or restoration is less than Five Hundred Thousand Dollars (\$500,000), Developer shall reconstruct or repair the damage consistent with the terms of this Agreement within six months of the destruction. If the cost is \$500,000 or more, then Developer shall have the discretion to reconstruct or repair the damage to the extent necessary and appropriate for purposes of the existing use, or Developer may elect to not reconstruct or repair the Improvements by delivery of written notice to the City within sixty (60) days after the destruction. If it so elects not to reconstruct, then Developer shall at its cost promptly remove the damaged Improvements, secure the Property, clear the debris and generally make the Property as safe and attractive as practical given the circumstances.

If Developer elects not to reconstruct, no further development of the Property can occur without the prior approval of the City. This Agreement shall continue to restrict future development of the Property and Developer or any successor of Developer shall obtain the City's approval of the redevelopment plan before the Property is redeveloped.

13.2 Condemnation. If during the term of this Agreement the whole or any substantial part of the Property is taken or condemned in the exercise of eminent domain

powers (or by conveyance in lieu thereof), such that Developer can no longer materially meet its obligations under this Agreement, this Agreement shall terminate upon the date when possession of the Property or portion thereof so taken shall be acquired by the condemning authority. As used herein, “substantial” shall be defined as reasonably preventing the conduct of Developer’s activities as contemplated hereby. If a taking occurs that is not substantial, this Agreement shall continue in full force and effect as to the part of the Property not taken.

Section 14. Right to Assign or Otherwise Transfer. Developer represents that its purchase of the Property is for development and not for speculation. During the term of this Agreement, any transfers of the Property shall be made expressly subject to the terms, covenants and conditions of this Agreement.

14.1 Transfers Before Certificate of Completion.

14.1.1 During the term of this Agreement, Developer will not transfer the Property or any part thereof that has not received a Certificate of Completion without the prior written consent of the City to the proposed transfer and transferee, which consent shall be at the sole discretion of the City.

“Transfer” as used herein includes any sale, conveyance, transfer, ground lease or assignment, whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer, or any transfer of a controlling interest in the management of Developer. The foregoing notwithstanding, any

sale, conveyance, transfer, ground lease or assignment of all or any interest in the Property or any portion thereof to an entity in which Developer or its principal owners holds a controlling interest shall not constitute a "Transfer" as used herein.

14.1.2 If the City approves of a transfer under Section 14.1, Developer shall deliver to the City (a) a copy of the document evidencing such transfer, including a suitable estoppel agreement(s), and (b) an assumption of all obligations of Developer under this Agreement in a form reasonably satisfactory to the City.

14.1.3 The transferee (and all succeeding and successor transferees) shall succeed to all rights and obligations of Developer under this Agreement, including any unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the written consent and release of the City, which consent and release shall not be unreasonably withheld.

14.1.4 If Developer transfers the Property or any part thereof during the term of this Agreement without the prior written consent of the City (unless such transfer is permitted under Section 14.1.1), then the same shall be a default hereunder.

Section 15. Default. Developer's failure to keep, observe or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

15.1 The failure of Developer to substantially comply with the standards of performance for the Project as set forth in Section 2.1 of this Agreement.

15.2 The failure of Developer to comply with the terms of any financing obligations for any Principal Project Element, and such failure is not cured within any time permitted by the lender providing such financing.

15.3 The failure of Developer to submit and obtain approval as to any modifications of the Plans as described in Section 6.

15.4 The failure of Developer to construct the Improvements substantially in accordance with the Plans, as the same may be modified pursuant to Section 6.4.

15.5 The failure of Developer to diligently prosecute construction and complete the Improvements in accordance with the Construction Schedule, subject to Force Majeure or any items the City agrees, in writing, are beyond the Developer's control.

15.6 Conversion of any portion of the Property or the Improvements to any use other than the uses permitted in this Agreement.

15.7 The failure of Developer to comply with Sections 11 or 12 of this Agreement or to satisfy the indemnities set out in this Agreement.

15.8 The making by Developer of an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

15.9 The appointment of a receiver or trustee of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or

insolvency law which is not dismissed or stayed by the court within sixty (60) days after such filing.

15.10 The failure of Developer to provide and maintain any construction performance bond or Irrevocable Letter of Credit, to the extent required pursuant to this Agreement.

15.11 Any sale, assignment or other transfer in violation of Section 14 of this Agreement.

Upon the happening of any of the above described events, the City shall notify Developer in writing of its purported breach, failure or act above described. Except in the case of Sections 15.8, 15.9 and 15.11 above as to which notice but no cure period shall apply, and as to which the occurrence of the event described therein shall be deemed an “Event of Default” hereunder, Developer’s failure to cure such breach, failure or act, within thirty (30) days from receipt of such notice (or if such failure cannot reasonably be cured within 30 days, if Developer fails to promptly commence and diligently pursue such cure to completion) shall be deemed an “Event of Default” hereunder.

Section 16. Remedies.

16.1 Remedies Upon Default. If an Event of Default shall occur, the City shall have all cumulative rights and remedies under law or in equity, including but not limited to the following:

16.1.1 Damages. Developer shall be liable for any and all damages incurred by the City, except that Developer shall not be liable for consequential damages incurred by the City.

16.1.2 Specific Performance. The City shall be entitled to specific performance of each and every obligation of Developer under this Agreement without any requirement to prove or establish that the City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that the City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.1.3 Injunction. The City shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that the City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that the City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.1.4 Performance Bonds/Irrevocable Letter of Credit. The City shall be entitled to draw upon or foreclose all or any part of the performance bonds and/or Irrevocable Letter of Credit provided under this Agreement, commence an action for equitable or other relief, and/or proceed against Developer for all direct monetary damages, costs and expenses arising from the Event of Default and to recover all such damages, costs and expenses, including reasonable attorneys' fees.

16.1.5 Withhold Certificate of Completion. As Developer is required to be in material compliance with this Agreement to have a Certificate of Completion issued,

during the continuance of an Event of Default, the City shall have no obligation to issue any Certificate of Completion.

16.2 Copy of Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement, the City shall at the same time forward a copy of such notice or demand to each Mortgagee approved by the City at the last address of such holder shown in the records of the City.

16.3 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies the City in writing of its intention to complete the Project according to the approved final Construction Documents. Any Mortgagee who shall properly complete the Project shall be entitled, upon written request made to the City, to issuance of a Certificate of Completion in accordance with Section 9 above.

16.4 Amendments Requested by Mortgagees. The City agrees to execute amendments to this Agreement or separate agreements from time to time to the extent reasonably requested by a proposed Mortgagee, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of the City or its interest in the Property, the Project or under the Project Documents.

16.5 Provisions Surviving Termination. The following provisions of this Agreement shall survive any termination of this Agreement: (i) Indemnification (Section 8.4) and (ii) Limitation on the City's Liability (Section 18.20). Upon termination of this Agreement, the Indemnification obligation set forth in Section 8.4 shall remain with the Parties then obligated thereunder, and such obligation shall not be assumed or deemed assumed by any subsequent owner of all or any portion of the Property.

Section 17. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full statutory right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 18. Miscellaneous.

18.1 Estoppel Certificates. The City and Developer shall at any time and from time to time, within thirty (30) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee, assignee or

subtenant designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by the City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

18.2 Inspection. Until the Certificate of Completion is issued, the City shall have the right, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect on a confidential basis the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. The City shall have the further right at all reasonable times to inspect any Property or part thereof which remains subject to this Agreement (even after a conveyance), including any construction work thereon, to determine compliance with the provisions of this Agreement.

18.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the Parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

18.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

18.5 Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inference be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness or discretion is explicitly permitted, such as in the case of a party being allowed to make a decision in its “sole judgment” or “sole discretion.”

18.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto except that there shall be no transfer of any interest by any of the Parties hereto except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law.

18.7 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the Parties at the following addresses:

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

To the City: Community and Economic Development Department
City of Tacoma
747 Market Street, 9th Floor
Tacoma, Washington 98402
Attn: Director
Fax: (253) 591-5232

With a copy to: City Attorney
City of Tacoma
747 Market Street, 11th Floor
Tacoma, Washington 98402-3767
Fax: (253) 591-5638

To Developer: Tacoma Old City Hall LLC
c/o Eli Moreno
5930 6th Avenue – Office #A-1
Tacoma, WA 98406

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

18.8 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

18.9 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

18.10 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

18.11 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington without recourse to any principles of Conflict of Laws. In the event any action is brought to enforce any of the provisions of this Agreement, the Parties agree to be subject to the jurisdiction in the Pierce County Superior

Court for the State of Washington or in the United States District Court for the Western District of Washington.

18.12 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between the City and Developer. The Parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by the City and Developer, their successors and assigns. No term or provision of this Agreement shall be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder, except as may be otherwise expressly provided herein.

18.13 Consents. Whenever consent or approval by the City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of the City or designee and shall not require the additional action of the City Council unless the City Manager or the City's legal counsel determines that such consent is necessary. Approval of any document that may be approved by the City Manager under this Agreement shall be given, if given, in writing, by the City Manager, and the City Attorney shall approve such document as to form.

18.14 Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday or legal holiday in the State of Washington, the period shall be extended to include the next day which is not a Saturday, Sunday or legal holiday in the State of Washington.

18.15 Conflict of Interest. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested. No member, official or employee of the City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by the City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

18.16 Discrimination. Developer, for itself and its successors and assigns, agrees that during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, handicap or national origin.

18.17 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals, accountants' and other experts' fees and all other fees, costs and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law.

18.18 Nonwaiver of Government Rights. The Parties understand that the City, by making and entering into this Agreement, is not obligating itself in its sovereign regulatory role to give governmental approvals, to take particular action or to be financially responsible for any obligations of the Developer.

18.19 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

18.20 Limitation of the City's Liability. Notwithstanding any provision in this Agreement to the contrary, Developer agrees that it has no recourse to the assets or public monies of the City for the collection of any judgment requiring the payment of money by the Developer or for the enforcement of any other judgment or remedy against the Developer.

18.21 Force Majeure. In addition to specific provisions of this Agreement, Developer shall not be deemed to be in default with regard to performance in accordance with the Construction Schedule where delays to performance due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which

necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act of any public or governmental entity or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not a cause beyond the control or without the fault of Developer (“Force Majeure”). For any Force Majeure delay that will cause substantial completion of the Project to be delayed more than forty five (45) days, Developer will keep the City informed about the cause and nature of such delay and the progress in achieving such substantial completion. Times of performance under this Agreement may also be extended in writing by the City and Developer.

18.22 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The Parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms’ length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of

this Agreement shall continue in full force and effect, unless rights and obligations of the Parties have been materially altered or abridged by such invalidation or unenforceability.

18.23 Time of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence.

IN WITNESS WHEREOF, the Parties hereto have executed this document as of the day and year first above written.

DATED this _____ day of _____, 2019.

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

CITY OF TACOMA, a Washington
municipal corporation

TACOMA OLD CITY HALL LLC
a Washington limited liability company

By _____
Victoria R. Woodards, Mayor

By _____
Eli Moreno, Manager

Elizabeth A. Pauli, City Manager

Jeff Robinson, Director
Community and Economic Development
Department

Andrew Cherullo, Finance Director

Attest:

Doris Sorum, City Clerk

Approved as to Form:

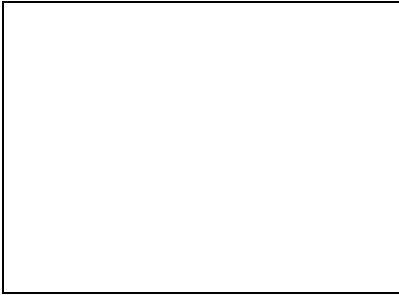
Deputy City Attorney

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Victoria R. Woodards is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the MAYOR of THE CITY OF TACOMA to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2019.



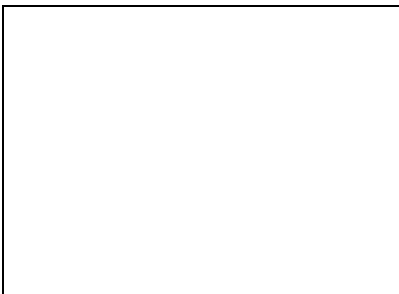
(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of _____ LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2019.



(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT A

Legal Description (and Depiction) of the Property



A portion of the Northwest quarter of the Northwest quarter of Section 4, Township 20 North, Range 3 East of the Willamette Meridian, in the City of Tacoma, Pierce County, Washington, and vacated portions of Cliff Avenue, Commerce Street, Pacific Avenue and 7th (Seventh) Street, more particularly described as follows:

Commencing at the monument marking the intersection of Pacific Avenue and 9th (Ninth) Street;

Thence North $0^{\circ}02'04''$ West along the center line of said Pacific Avenue 685.10 feet to the monument marking the intersection of Pacific Avenue and Seventh Street; Thence continuing North $0^{\circ}02'04''$ West 40.00 feet; Thence West 50.00 feet to the Point of Beginning; Thence South $0^{\circ}02'04''$ East 1.60 feet; Thence West parallel to the centerline of 7th (Seventh) Street 30.00 feet;

Thence South 1.50 feet; Thence West 21.42 feet; Thence South 7.98 feet; Thence West 26.52 feet; Thence North $0^{\circ}31'50''$ West 7.62 feet; Thence West 24.69 feet; Thence North $0^{\circ}00'58''$ East parallel to the centerline of Commerce Street 3.46 feet; Thence West 8.22 feet; Thence North $0^{\circ}00'58''$ East 134.22 feet; Thence North $75^{\circ}47'53''$ East 88.06 feet; Thence South $15^{\circ}32'04''$ East 156.96 feet; Thence South $74^{\circ}27'56''$ West 17.16 feet to the Point of Beginning.

EXHIBIT B

Form of Certification of Completion

**CERTIFICATE OF COMPLETION
Old City Hall**

GRANTOR: CITY OF TACOMA, a Washington municipal corporation

GRANTEE: _____ LLC, a Washington limited liability company

Legal Description of the Property

_____.

Assessor's Tax Parcel No(s): 0320042007

Related Document: Development Agreement (Doc. No. _____)

The CITY OF TACOMA, a Washington municipal corporation ("the City"), hereby certifies that _____ LLC, a Washington limited liability company ("Developer"), has satisfactorily completed construction of the Improvements on the Property described above, as such Improvements are described in the Plans approved for such Project pursuant to that certain Development Agreement dated _____, 2019 (the "Agreement"), which was recorded in the Records of the Pierce County Auditor, Washington, as Document No. _____, on _____, 2019. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

This Certificate of Completion is and shall be a conclusive determination that the Developer has satisfied, or the City has waived, each of the agreements, covenants and conditions contained in the Agreement as to the development of the Improvements in the Project described herein pursuant to Section 6 of the Agreement, but only as to the Property legally described above.

Notwithstanding this Certificate of Completion, Section 16.5 of the Agreement provides for the survival of certain covenants as between the City and Developer, and nothing in this Certificate of Completion affects such survival.

IN WITNESS WHEREOF, the City has caused this instrument to be executed this _____ day of _____, ____.

**DEVELOPMENT AGREEMENT
OLD CITY HALL**

CITY OF TACOMA, a Washington
municipal corporation

By _____
Its _____

EXHIBIT C

Initial Construction Schedule

- A. Conduct due diligence (including scoping process): 60 Days – mutual acceptance
- B. Complete schematic design: September 30, 2019
- C. Apply for Historic Tax Credits: October 31, 2019
- D. Submit for pre-application review: November 30, 2019
- E. Obtain Historic Tax Credit application approval: February 28, 2020
- F. Obtain Landmarks Preservation Commission approval: February 28, 2020
(projected)
- G. Provide 30% completion of construction drawings: March 15, 2020
- H. Demonstrate 100% financing: April 30, 2020
- I. Obtain building and related permits: July 15, 2020
- J. Transfer title to property: July 31, 2020
- K. Commence building construction: August 15, 2020
- L. Complete building construction: November 30, 2021
- M. Obtain Certificate of Occupancy: December 15, 2021
- N. Tenants occupy the building: December 31, 2021

EXHIBIT D

Protective Covenants

EXHIBIT E
Public Benefits Agreement

Document Title: PUBLIC BENEFITS AGREEMENT
Grantor: TACOMA OLD CITY HALL LLC
Beneficiary: CITY OF TACOMA
Address: 625 COMMERCE STREET
TACOMA, WA 98402

OLD CITY HALL PUBLIC BENEFITS AGREEMENT

THIS Agreement, by and between the City of Tacoma, ("City") and Tacoma Old City Hall LLC ("TOCH"), is effective as of the ____ day of _____, 2019.

I. RECITALS

WHEREAS TOCH desires to purchase and develop City-owned property located at 625 Commerce Street (Pierce County Tax Parcel No. 0320042007) and commonly known as Old City Hall ("Property"); and

WHEREAS the City and TOCH have entered into a Purchase and Sale Agreement ("PSA") and a Development Agreement ("DA"), dated _____, 2019, which agreements require an in-kind equivalent of two million dollars (\$2,000,000) in Public Benefits to be provided to the City by TOCH; and

WHEREAS the Public Benefits are designed to meet broad-based community needs, further equitable access in service delivery, provide unique opportunities to develop and attract talent, support transformative efforts and coalesce with neighborhood synergies; and

WHEREAS the PSA and DA require the Public Benefits to be memorialized in a separate Agreement and detail the City's rights and recourse if the Public Benefits are not realized; and

NOW, THEREFORE, in consideration of these benefits, the City and TOCH agree to the following terms and conditions set forth below.

II. TERMS AND CONDITIONS

This Agreement is subject to the following terms and conditions:

A. General Conditions

1. The Agreement Term is for ten (10) years from the date of Certificate of Occupancy.

2. This Agreement and its terms are subject to future reviews by the City to determine whether the benefits listed remain consistent with the value established herein, as described in Exhibit A.

A. If at any time during the Term the value of any of the benefits falls below the agreed upon amounts, the City shall calculate the value of the benefit still owed to the City, and shall invoice TOCH. TOCH shall pay the remaining value owed to the City within thirty (30) days of receipt of the invoice.

3. TOCH shall have the right to present the City with a buy-out option at any point during the Term for the proposed benefits, or any part thereof. The City shall review this option and render a written decision in a timely manner.

4. During the Term, TOCH shall have the right to alter or propose new benefits of value in place of those agreed upon herein. The City shall review these proposals and render a written decision in a timely manner with approval not unreasonably withheld.

5. TOCH shall at a minimum submit quarterly reports to the City by January 15th, April 15th, July 15th and October 15th of each year for 10 years during which the Public Benefits Agreement is in effect. In the event that TOCH exercises a buy-out option, the Term of this requirement shall be adjusted accordingly. The report shall describe how TOCH is meeting the terms of the Special Conditions of the Public Benefits Agreement.

6. Contacts for this Agreement shall be as follows:

For City of Tacoma:

Community and Economic Development Department
City of Tacoma
747 Market Street, 9th Floor
Tacoma, WA 98402
Attn: Director

For Tacoma Old City Hall LLC

Tacoma Old City Hall LLC
c/o Eli Moreno
5930 6th Avenue – Office #A-1
Tacoma, WA 98406

B. Specific Conditions:

1. **Reduced Rent to Tacoma Historical Society (THS)**
 - a. TOCH shall make available to THS not less than 1,250 square feet of museum/exhibit space at the rate of one dollar (\$1) per square foot per year for the Term. Conditions associated with this Public Benefit are as follows:
 - (1) THS shall agree to lead and/or sponsor monthly workshops and events (12 per calendar year).
 - (2) THS shall agree to provide free admission to the museum/exhibit space during the Term.
 - (3) One workshop/event per year must include the topic of redeveloping historic properties in order to encourage reinvestment in Tacoma, which THS shall advertise to property owners within Tacoma's historic districts and to developers.
 - (4) TOCH shall obtain approval to install exterior signage on the Building that indicates the presence of THS.
 - (5) At all times during the Term, not less than twenty percent (20%) of the THS museum/exhibit space shall reflect the history of Tacoma's communities of color and women.
2. **Entrepreneurial Education Program**
 - a. During the Term, TOCH shall conduct an annual educational program for a minimum total of 44 students, held weekly at Old City Hall, with a core curriculum in business skills. The core curriculum will adapt to changing market conditions during the Term.
 - b. TOCH shall endeavor to have not less than fifty percent (50%) of accepted students live and/or work in underserved geographical areas of Tacoma.
 - c. TOCH shall strive to employ educators/providers reflective of the population demographics they are serving at Old City Hall.
3. **Affordable and Market Rate Housing Subsidies**
 - a. TOCH shall agree to forego applying for and obtaining the Multi-Family Property Tax Exemption (MFPTE) for the Property.
 - b. For 12 years as noted in Exhibit A, TOCH shall work with affordable housing providers and offer fifty percent (50%) of the affordable housing units to persons living or doing business in underserved geographical areas of Tacoma who are at or below 60% AMI.

BASED ON THE CONDITIONS SET FORTH ABOVE, the City agrees to the values set forth, as detailed in Exhibit A, for the purposes described herein and subject to the terms and conditions set forth in this Agreement.

TACOMA OLD CITY HALL LLC

By: Eli Moreno
Its: Manager

CITY OF TACOMA

Jeff Robinson
Director, Community and Economic Development Department

Approved as to form:

Deputy City Attorney

EXHIBIT A Value of Benefits

(Note: Due to tax rate decline, need to identify an additional \$100,260 in public benefits—development of Small Business Resource Guide and be available on-line)

BENEFIT	ASSUMPTIONS	VALUE
Reduced Rent to Tacoma Historical Society	<ul style="list-style-type: none">• Market rent = \$24/sf/yr• THS pays \$1 per year for 1,250 sf• Benefit = \$23/sf/yr	\$287,500
Entrepreneurial Education Program (As outlined in the attached Surge Entrepreneurial Programs description)	<ul style="list-style-type: none">• Approx. \$2,830 per student per year• 44 adult & 10th to 12th grade students	\$1,245,328
Affordable and Market Rate Housing Subsidies (City of Tacoma Multi-Family Property Tax Exemption Program)	<ul style="list-style-type: none">• Housing Construction cost = \$273/sf for 11,000 sf• 2019 tax rate = 12.964032/\$1,000• 12-year available subsidy	- \$467,172

**PURCHASE AND SALE AGREEMENT BETWEEN
THE CITY OF TACOMA AND
TACOMA OLD CITY HALL LLC**

This AGREEMENT REGARDING THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is entered into as of _____, 2019 between the CITY OF TACOMA, a first class municipal corporation ("Seller") and Tacoma Old City Hall LLC ("Buyer").

RECITALS

1. Seller is the owner of certain real property more particularly described in Section 1 below that Seller desires to sell into private ownership.
2. Buyer desires to purchase the property from Seller.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT

1. Real Property. Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth in this Agreement, the real property located in the City of Tacoma, County of Pierce and State of Washington, legally described in Exhibit A and depicted on Exhibit B, as both attached hereto and incorporated herein by this reference, together with all of Seller's right, title and interest in and to any rights licenses, privileges, reversions and easements pertinent to the real property (collectively, the "Property").
2. Deposit. Upon execution of the Purchase and Sale Agreement, the Development Agreement and the Public Benefits Agreement by both Seller and Buyer, Buyer shall deliver to Fidelity National Title in Seattle, Washington (the "Title Company"), as escrow agent for the closing of this transaction, an earnest money deposit in the amount of Four Hundred Thousand U.S. Dollars (\$400,000), which shall be non-refundable (the "Deposit"). The Deposit will be held by the Title Company for the benefit of the parties pursuant to the terms of this Agreement. Any interest that accrues on the Deposit will be for the benefit of Buyer; provided, however, that if Buyer forfeits the Deposit to Seller pursuant to the terms of this Agreement, then all interest accrued on the Deposit will be paid to Seller.
3. Purchase Price. The total purchase price for the Property (the "Purchase Price") will be Four Million U.S. Dollars (\$4,000,000), to which the Deposit shall be a fully applicable part. The Purchase Price will be paid to Seller as follows:
 - 3A. Cash Due At Closing. Buyer shall remit to Seller One Million Six Hundred Thousand Dollars (\$1,600,000) at closing.
 - 3C. Public Benefits Agreement. The balance of Two Million U.S. Dollars (\$2,000,000) shall be provided as outlined in the Public Benefits Agreement.
4. Title to Property.
 - 4.1 Conveyance. At closing, Seller shall convey the Property to Buyer by duly executed and acknowledged quit claim deed (the "Deed"), subject only to those

encumbrances that Buyer approves pursuant to Section 4.3 below (the "Permitted Encumbrances").

4.2 Commitment. Upon execution of this Agreement, Seller authorizes Buyer to order a commitment for an owner's standard coverage policy of title insurance (or, at Buyer's election, an owner's extended coverage policy of title insurance) in the amount of the Purchase Price to be issued by the Title Company and accompanied by copies of all documents referred to in the commitment (the "Commitment").

4.3 Condition of Title. Buyer shall advise Seller by written notice what encumbrances to title, if any, are disapproved by Buyer ("Disapproved Encumbrances") within 10 (ten) business days of receipt of the Commitment. All monetary encumbrances other than non-delinquent ad valorem property taxes will be deemed to be disapproved. Seller will have ten (10) business days after receipt of Buyer's notice to give Buyer notice that (i) Seller will remove Disapproved Encumbrances, or (ii) Seller elects not to remove Disapproved Encumbrances. If Seller fails to give Buyer notice before the expiration of the ten (10) day period, Seller will be deemed to have elected not to remove Disapproved Encumbrances. Notwithstanding anything to the contrary in this Agreement, Seller shall remove from title on or before the Closing Date all monetary encumbrances other than those approved by Buyer. If Seller elects not to remove any Disapproved Encumbrances, Buyer will have fifteen (15) business days to notify Seller of Buyer's election either to proceed with the purchase and take the Property subject to those encumbrances, or to terminate this Agreement. If Buyer elects to terminate this Agreement pursuant to this section, the escrow will be terminated, the Deposit will be returned immediately to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided for in this Agreement. If this Agreement is terminated through no fault of Seller, then Buyer shall pay any costs of terminating the escrow and any cancellation fee for the Commitment.

4.4 Title Policy. Seller shall cause the Title Company to issue to Buyer at closing a standard coverage owner's policy of title insurance insuring Buyer's title to the Property in the full amount of the Purchase Price subject only to the Permitted Encumbrances (the "Title Policy"). The Title Policy must be dated as of the Closing Date.

5. Buyer's Due Diligence.

5.1 Feasibility Study. Seller issued a Right of Entry to Buyer on October 10, 2018, which allowed Buyer to begin early on-site feasibility studies. Buyer shall have until **sixty (60) days** after mutual acceptance of this Agreement, (the "Feasibility Study Period") to conduct a review of the Property and satisfy itself with respect to the condition of and other matters related to the Property and its suitability for Buyer's intended use (the "Feasibility Study"). The Feasibility Study may include all inspections and studies Buyer deems reasonably necessary or desirable. Buyer and Buyer's agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the date of this Agreement to enter onto the Property and make borings, drive test piles and conduct any other reasonable tests and studies that may be necessary or desirable to ascertain the condition and suitability of the Property for Buyer's intended use. Such tests and inspections are to be performed in a manner not disruptive to the operation and current use of the Property. Buyer shall protect, defend and indemnify Seller from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released.

5.2 Non-Suitability. Buyer will have the right to terminate this Agreement if, in Buyer's good faith judgment, the Property is not suitable for Buyer's intended use.

Buyer's right to terminate must be exercised by delivering written notice of its election to Seller on or before the expiration of the Feasibility Study Period. In the event Buyer does not complete the purchase, Buyer shall return the Property as near as is practicable to its original condition. If Buyer terminates this Agreement pursuant to this section, the Deposit, less any costs advanced or committed for Buyer, will be returned to Buyer, this Agreement will terminate, and Seller and Buyer will be released from all further obligation or liability hereunder, except as otherwise specified by this Agreement and except for Buyer's obligations to indemnify Seller under this section. Failure by Buyer to notify Seller in writing of any matters affecting the suitability of the Property, whether or not an inspection has been carried out, shall deem Buyer to have waived this contingency.

5.3 Buyer's Indemnification. Buyer agrees to assume all liability for and to defend, indemnify and save Seller harmless from all liability and expense (including reasonable costs and attorneys' fees) in connection with all claims, suits and actions of every name, kind and description brought against Seller or its agents or employees by any person or entity as a result of or on account of injuries or damages to persons, entities and/or property received or sustained, arising out of, in connection with or as a result of the acts or omissions of Buyer, or its agents or employees in exercising its rights under this Agreement and the right of entry granted in connection with its Feasibility Study, except for claims caused by Seller's sole negligence.

6. Condition of the Property.

6.1 "As Is" "Where Is". Buyer acknowledges that the Property will be purchased under this Agreement in an "as is" "where is" condition. Seller shall surrender the Property in as good condition, except for normal wear and tear, as exists on the date of this Agreement. Seller agrees that it will not damage or commit waste on the Property between the date of acceptance of this Agreement and the date of closing.

6.2 Inspections. Buyer agrees that it will rely on its own inspections and evaluations of the Property, with the exception of any written documentation, including, but not limited to any disclosures required by law, provided to it by Seller, to determine the suitability of the Property for Buyer's intended use.

7. Conditions Precedent to Closing. All of the following must be achieved/completed prior to Closing on Buyer's purchase of the Property:

7.1 Seller's Conditions Precedent

7.1A Development Agreement. A Development Agreement by and between the Seller and the Buyer, attached to this Agreement as Exhibit C, shall be fully executed prior to transfer of property. All terms and timelines within the Development Agreement are fully incorporated herein.

7.1B Public Benefits Agreement. A Public Benefits Agreement by and between the Seller and Buyer, attached to this Agreement as Exhibit D, shall be fully executed prior to transfer of property. All terms and timelines within the Public Benefits Agreement are fully incorporated herein.

7.1C City Council Approval. The transaction, Development Agreement and the Public Benefits Agreement contemplated hereby, must be duly approved by the Tacoma City Council prior to closing. If Tacoma City Council approval is not obtained, this Agreement will terminate, and the Deposit, less any costs advanced or committed for Buyer, will be returned immediately to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided for in this Agreement.

Nothing in this Paragraph 7.1 will obligate the Buyer to obtain City Council approval beyond the ordinary course of City procedure.

7.1D Approved Development Plan. Buyer shall have an approved Development Plan for building improvements. Approval shall be provided by City staff from the City of Tacoma Community and Economic Development Department and the Tacoma Landmarks Preservation Commission.

7.1E Federal Historic Tax Credits. Buyer shall submit evidence of a completed and approved Part II of the Federal Historic Tax Credits application.

7.1F Funding. Buyer must successfully demonstrate to Seller it has sources of funds for one hundred percent (100%) of the total project cost, estimated to be Fifteen Million U.S. Dollars (\$15,000,000), per the funding plan set forth in the incorporated and attached Development Agreement.

7.1G Permitting. All initial permits for construction of interior and exterior improvements, as set forth in the incorporated and attached Development Plan, shall be secured prior to closing. These permits must be ready for issuance and pickup upon conveyance.

7.1H Parking/Non-Motorized Transportation Plan. Approval of Buyer's Plan must be obtained by the City of Tacoma CEDD Director and Public Works Director, which approval shall not be unreasonably withheld.

7.1I Equitable Access Plan. Approval of Buyer's Plan must be obtained by the City of Tacoma CEDD Director and Office of Equity and Human Rights Director, which approval shall not be unreasonably withheld.

Delivery by Seller. Seller will deposit the following with the Closing Agent:

- (a) The Deed, duly executed and acknowledged by Seller, in recordable form, and ready for recordation at Closing together with a duly executed real estate excise tax affidavit;
- (b) Such resolutions, authorizations, certificates, or other corporate and/or partnership documents or agreements relating to Seller, as shall be reasonably required by Buyer or a title company or the Closing Agent in connection with this transaction; and
- (c) Any other documents, instruments, data, records, correspondence, or agreements called for hereunder which have not previously been delivered.

7.2 Buyer's Conditions Precedent

Feasibility. As set forth at Section 5.1 above, prior to Closing, Buyer must have concluded its Feasibility Study and satisfy itself with respect to the condition of, and other matters related to the Property and its suitability for Buyer's intended use.

Delivery by Buyer. Buyer will deposit the following with the Escrow Agent:

- (a) Buyer shall deposit with the Closing Agent the Cash Due At Closing and any Closing Costs which are the responsibility of Buyer hereunder; and

(b) Buyer shall deposit with Closing Agent a signed copy of Seller's Disclosure, acknowledging waiver of the receipt of said disclosure as allowed by applicable law; and

(c) Any other documents, instruments, data, records, correspondence, or agreements called for hereunder which have not previously been delivered.

8. Closing. This transaction will be closed in escrow by the Title Company acting as escrow agent ("Escrow Agent"). The closing will be held at the office of the Title Company on or before March 31, 2020 (the "Closing Date"). If closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Seller and Buyer, Escrow Agent will immediately terminate the escrow, forward the parts of the Deposit to the party entitled to receive them as provided in this Agreement and return all documents to the party that deposited them. When notified by Escrow Agent, Buyer and Seller will deposit with Escrow Agent without delay all instruments and moneys required to complete the transaction in accordance with this Agreement. "Closing," for the purpose of this Agreement, is defined as the date that all documents are executed, the sale proceeds are available for disbursement to the Seller, and legal title passes to the Buyer.

9. Closing Costs and Pro-rations. Seller shall pay the premium for a standard coverage owner's policy of title insurance in the full amount of the Purchase Price, state of Washington real estate excise taxes applicable to the sale, and one-half of the Escrow Agent's escrow fee. Buyer shall pay the additional premium, if any, attributable to an extended coverage owner's policy of title insurance (if elected by Buyer) and any endorsements required by Buyer, any financing costs, the cost of recording the deed and any financing documentation, and one-half of the Escrow Agent's escrow fee. Property taxes and assessments for the current year, water and other utility charges, if any, shall be prorated as of the Closing Date unless otherwise agreed. Seller is a property tax exempt organization pursuant to R.C.W. 84.36.010, and therefore property taxes will only be due from Buyer for its ownership from and after the Closing Date.

10. Casualty Loss. Seller shall promptly notify Buyer of any event prior to the Closing Date which causes damage to or destruction of any portion of the Property. If Buyer and Seller cannot come to an agreement regarding any such damage to or destruction of the Property, including the settlement of any insurance claims, then Buyer and Seller will each have the right to terminate this Agreement by giving written notice of termination to the other party within twenty (20) days after receipt of actual notice of such casualty loss. Upon exercise of such termination election by either party, this Agreement will terminate, and the Deposit will be returned to Buyer.

13. Possession. Seller shall deliver possession of the Property to Buyer on the Closing Date. Seller shall remove any and all personal property from the Property on or before the Closing Date, unless specifically authorized otherwise in writing by Buyer.

14. Events of Default. In the event Buyer fails, without legal excuse to complete the purchase of the Property, Seller shall be entitled to retain the Deposit, and may pursue any remedies available to it in law or equity, including specific performance. In the event Seller fails, without legal excuse, to complete the sale of the Property, Buyer shall be entitled to immediate return of the Deposit and may pursue any remedies available to it in law or equity, including specific performance.

15. Notices. Any notice under this Agreement must be in writing and be personally delivered, delivered in person or by recognized overnight courier service, given by mail or via e-mail. If using e-mail for Notices, the sender must follow up with a hardcopy of the Notice delivered to the recipient by mail or in person. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Seller: City of Tacoma, Public Works Department
Real Property Services
747 Market Street, Room 737
Tacoma, WA 98402

With a copies to: City of Tacoma, Legal Department
747 Market Street
Tacoma, WA 98402

City of Tacoma, Community and Economic Development
Department
747 Market Street, Room 900
Tacoma, WA 98402

Buyer: Tacoma Old City Hall LLC
c/o Eli Moreno
5930 6th Avenue – Office #A-1
Tacoma, WA 98406

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail.

16. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto, each of which counterpart when so executed shall have the same force and effect as if that party had signed all other counterparts.

17. Brokers and Finders. Each party represents and warrants to the other that, to such party's knowledge, no broker, agent or finder is involved in this transaction. In the event any broker or other person makes a claim for a commission or finder's fee based upon the transaction contemplated by this Agreement, the party through whom said broker or other person makes its claim shall indemnify and hold harmless the other party from said claim and all liabilities, costs and expenses related thereto, including reasonable attorneys' fees, which may be incurred by such other party in connection with such claim. This indemnity shall survive the closing of this transaction.

18. Amendments. This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

19. Continuation and Survival of Representations and Warranties. All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title for a period of 6 (six) months whereupon they shall terminate. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.

20. Governing Law. This Agreement will be governed and construed in accordance with the laws of the state of Washington without recourse to any principles of Conflict of Laws.

21. Attorney Fees. If either party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement,

the defaulting party or the party not prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy proceeding.

22. Time of the Essence. Time is of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

23. FIRPTA. The Escrow Agent is instructed to prepare a certification or equivalent that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act ("FIRPTA"), and Seller agrees to sign this certification. If Seller is a "foreign person" as the same is defined by FIRPTA, and this transaction is not otherwise exempt from FIRPTA, Escrow Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

24. Waiver. Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

25. Non-merger. The terms and provisions of this Agreement, including without limitation, all indemnification obligations and obligations to develop the Property that, by their terms extend beyond the Closing Date, will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

26. Assignment. Buyer shall not assign this Agreement without Seller's prior written consent, which consent may not be unreasonably withheld or delayed. Notwithstanding this restriction, Buyer is specifically authorized to assign its rights under this Agreement to a legal entity (such as a limited liability company) formed and controlled by Buyer.

27. Negotiation and Construction. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

28. Additional Acts. Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by any party hereto, the parties agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts, deeds and assurances, which may reasonably be required to give effect to the Agreement contemplated herein.

29. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the purchase and sale of the Property, and supersedes all prior agreements and understandings, oral or written, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

SELLER:

CITY OF TACOMA, a first class
municipal corporation

Elizabeth A. Pauli
City Manager

Department Approvals:

Jeff Robinson
Director, Community and Economic Development Department

Kurtis D. Kingsolver, P.E.
Public Works Director/City Engineer

Diane Powers
Director, Office of Equity and Human Rights

Andrew Cherullo
Finance Director

Approved as to form:

Office of City Attorney

BUYER:

Tacoma Old City Hall LLC

By: Eli Moreno
Its: Manager

Exhibit A

Legal Description of the Property

A portion of the Northwest quarter of the Northwest quarter of Section 4, Township 20 North, Range 3 East of the Willamette Meridian, in the City of Tacoma, Pierce County, Washington, and vacated portions of Cliff Avenue, Commerce Street, Pacific Avenue and 7th (Seventh) Street, more particularly described as follows:

Commencing at the monument marking the intersection of Pacific Avenue and 9th (Ninth) Street; Thence North $0^{\circ}02'04''$ West along the center line of said Pacific Avenue 685.10 feet to the monument marking the intersection of Pacific Avenue and Seventh Street; Thence continuing North $0^{\circ}02'04''$ West 40.00 feet; Thence West 50.00 feet to the Point of Beginning; Thence South $0^{\circ}02'04''$ East 1.60 feet; Thence West parallel to the centerline of 7th (Seventh) Street 30.00 feet; Thence South 1.50 feet; Thence West 21.42 feet; Thence South 7.98 feet; Thence West 26.52 feet; Thence North $0^{\circ}31'50''$ West 7.62 feet; Thence West 24.69 feet; Thence North $0^{\circ}00'58''$ East parallel to the centerline of Commerce Street 3.46 feet; Thence West 8.22 feet; Thence North $0^{\circ}00'58''$ East 134.22 feet; Thence North $75^{\circ}47'53''$ East 88.06 feet; Thence South $15^{\circ}32'04''$ East 156.96 feet; Thence South $74^{\circ}27'56''$ West 17.16 feet to the Point of Beginning.

Exhibit B
Depiction of the Property

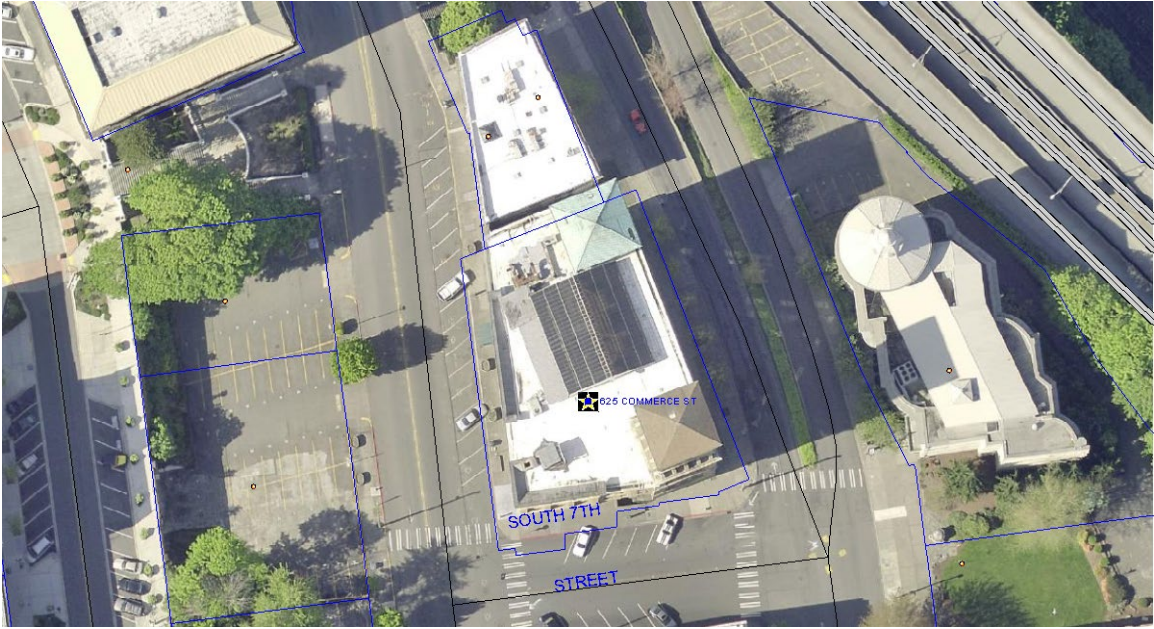


Exhibit C
Development Agreement

Exhibit D
Public Benefits Agreement

***SURGE* Entrepreneurial Programs**

SURGE Tacoma proposes two educational programs to be held in Old City Hall with a 10-year value of **\$1,145,068**. The two programs will have a similar curriculum and objectives to a different target student in the community.

- Entrepreneurial Community of Tacoma: **STEP Surge Training in Entrepreneurism Program**
- 10th-12th graders from Tacoma Public Schools: **SYE Surge Young Entrepreneurs**

The objectives of these programs are to first identify businesses, leaders and students in our region that have the potential to become great entrepreneurs. Next, we surround these aspiring entrepreneurs with a network and educational skill set that will encourage *creation* and success. Finally, we will nurture these candidates with long-term alumni programs that enable them to reconnect, inquire, and engage. Both courses will have applications to ensure the richness of diversity in our programs.

***Surge* Training in Entrepreneurship Program: Offered to Tacoma area post-high school graduates**

- Six-month, weekly, program for 22 students from the underserved geographical areas of Tacoma and the general community.
- Core curriculum in business skills accounting, marketing & sales, teams, hiring practices, legal matters, and entrepreneurship.
- Offer hands-on training to develop business acumen and entrepreneurial skills

***Surge* Young Entrepreneurs: Offered to Tacoma area 10-12th grade students**

- Six-month program for 22 students in 10-12th grade, held weekly at OCH
- Core curriculum in business skills (resume, interviews, college apps etc), accounting, marketing & sales, teams, and entrepreneurship.
- Partner with Tacoma PS, local businesses, Startup253 to train students.
- Course ends with product development and pitch night with current and past students and group of local Startup253 leaders as judges with networking event.

STEP SURGE Training in Entrepreneurism Program

Summary

The mission of Surge STEP Program is to educate and inspire entrepreneurs and small business leaders in their product, idea or technologic creation while cementing the fundamental skills of business.

At Surge Tacoma, we believe the City of Tacoma holds the growth in entrepreneurship in the Northwest. We endeavor to find and inspire individuals in the community that want to learn more business skills and develop their entrepreneurial spirit to create business and jobs. These individuals reflect the community of Tacoma and are post-high school graduation.

With this in mind, we have developed **STEP- Surge Training in Entrepreneurship Program**. This six-month program will curate a cohort of Tacoma area residents that endeavor to create products, technology or ideas for the marketplace. We will help train them with the fundamental skills that every business person requires from banking, marketing, management, HR, legal, teams, to pitch.

We will partner with our network from StartUp253 to inspire them about developing companies. Leaders from Startup253 and SurgeTacoma will present their company's success and pitfalls. The program will end with a Pitch to Surge entrepreneurs/investors from the community.



STEP Curriculum

Course Description: This is a course for artists, techies, small businesswomen, engineers, writers, and all students interested in excelling in the 21st Century. Students will develop an entrepreneurial mindset, a mindset capable of critical thinking and problem solving in a fast-paced professional setting. Class participants will have a foundation in business skills and build a basic knowledge of various entrepreneurial ventures to create a business. Through mentorship, learning labs, and real-world projects, students will be exposed to different types of innovative entrepreneurial concepts. Students will also be challenged to identify and develop their personal professional strengths along with their innovative spirits. Graduates from the program are intended to develop a business or refine the ones they already have in the Tacoma area.

The training program will accept applications for this free program through the SURGETacoma and Old City Hall Website. It will include 22 students from the Tacoma area. All efforts will be made to ensure a diverse mix to the cohort that includes up to 50% of students that live in and or work in underserved geographical areas of Tacoma. A steering committee (comprised of teachers, business leaders, and entrepreneurs) will be utilized to write the application, recommend candidates for acceptance, and guide the curriculum.

The six-month course will take place within Old City Hall for 10 years. A large conference room and the Technology Center will be the primary area of teaching but field trips to area businesses will also be integral to the program. The course will be taught and managed by educators/providers reflective of the communities that they serve at Old City Hall Tacoma. Partner companies and guest lecturers will be incorporated into the program to help solidify the teaching of business values. Webinars and video production of the course will also be utilized to facilitate student learning.

The following is the intended foundation for a business principles course. The specific materials, and syllabus and hands-on projects to be determined closer to program launch date. The program may need to be modified and have the ability to change due to market.

Accounting

- **How to write a Business Plan that will be successful with investors and Venture Capitalists.**
- **How to present an Executive Summary**
- **Credits and Debits 101...Help with successful banking practices**
- **Navigating the world of Loans, Taxes, and Licenses**
- **Speaker from local firm to review common pitfalls, failures, and successful strategies**

Marketing

- **How to write develop a competitive Market Analysis.**
- **Developing Marketing Strategies and Channels for your product**
- **Harnessing Social Media on a budget, an update on tools and tricks**
- **Logos, websites, SEO, and the digital world**
- **Networking and Sales**

Management

- **Developing the Infrastructure of your company and Advisory Board**
- **It's all about the team. How to nurture yours**
- **Workforce development and better hiring practices**
- **Legal strategies and pitfalls in business**

Finance

- **How much capital and resources does your company need**
- **Scaling your product**
- **Developing Projection Tables and predictions**
- **Legal structure of your company**



Pitch

- **Develop 30 second, 2 minute, and 10 minute pitch**
- **10 slides for your product**
- **Practice Pitch amongst the team**
- **Guest speaker to discuss what the experts say**

Investors

- **Why will investors pick you**
- **How can you make your company look ready**
- **Culminate in Pitch Night with Investors and StartUp253 team to judge**



Surge Young Entrepreneurs

At Surge Tacoma, we believe the bright, perseverant youth of our city are the key to our future. We recognize that the solutions to our daily problems come from the students that sit in today's classrooms. With this in mind, we aim to develop a program to inspire Tacoma's best and most innovative minds.

The mission of Surge Young Entrepreneurs is to educate and inspire our youth to thrive in their product, idea or technologic creation while instilling the fundamental skills of business.

Surge Tacoma will provide a tuition-free, yearly program for the 10-12th grade students of the greater Tacoma area. A weekly seminar will focus on the skills needed for an entrepreneur. It encompasses a four-part curriculum that includes:

- Intro to Business Skills
- Sales and Marketing
- Accounting
- Development of a Business Plan and Pitch

Surge Tacoma intends to partner with Tacoma Public Schools, local business leaders and entrepreneurs within the Startup253 community to teach these skills. The program will be held in the learning lab of Old City Hall as well as a monthly visit to a local business that is a sponsor of the Surge Young Entrepreneurs. High school students will experience realistic simulations that let them see and feel what it's like to start, manage and build a company. Working with peers,

they will tackle the challenges of a start-up – from generating ideas to securing finances, to launching a business. By the end of the year, the intention is to have fundamental skills in business, learn how to turn a great idea into a business plan, perfect an elevator pitch and land the all-important angel investor.

For example, a local entrepreneur has grown her boutique coffee shop from one to six locations. She joins the Surge Young Entrepreneur program by hosting the cohort for a 90-minute presentation and Q&A on product growth and scalability. A local bank partners with the program hosting the group in a bank conference room and discusses bank loans and accounting. Here the group learns not just basic business skills, but also to dress for business meetings and appropriate behavior in board rooms.

In addition to visits to local business partners, students will receive a monthly guest-lecturer from the network of SurgeTacoma entrepreneurs at OCH. They will learn the highs and lows of real-world start-up success stories from the experts. This will likely be the highlight for most students and be a key ingredient to the long-term success of inspiring Tacoma students into the future.

The application for the program will be open to any entering 10th-12th grade student enrolled in a greater Tacoma area school. The application will be made available on the SurgeTacoma and Surge Old City Hall websites and widely advertised through the public schools. Students that show the attributes of an entrepreneur, such as diligence and motivation will be given priority.

The program will culminate with a “Pitch Night” where teams from the cohort will develop, build, and pitch their product. This will include an Alumni program that invites past graduates, local business leaders, and entrepreneurs. At this event, current and past participants mingle and information on education and employment data can be collected to study. The intention of the event is to continually nurture students and keep them in contact with our network. This long-term engagement is critical for our students’ success.

Success Metrics

1. Application will specifically ask questions about address and qualification for reduced lunch program. This data will be collected for bi-yearly report to the city on the demographic makeup of the Entrepreneurship Program.
2. >50% of Surge Young Entrepreneurs will apply and matriculate to a college or technical school after high school.
3. 10% of graduates from the program will develop a product or idea that develops into a company.

4. >75% of graduates enter the workforce in 5 year with skills that were nurtured from the program.

Data will be collected from graduates in two ways:

1. Follow-up surveys will be given yearly by email
2. An Alumni program will follow each year with the “SYE Pitch Night”. At this event, current and past participants mingle and information on education and employment data can be collected to study. The intention of the event is to continually nurture students and keep them in contact with our network. This long-term engagement is critical for our students’ success.